

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X
CRAIG CUNNINGHAM on behalf of himself
and all others similarly situated,

Plaintiff,

- against -

ORDER

CV 17-2080 (ADS) (AKT)

SHORE FUNDING SOLUTIONS INC.,

Defendant.
-----X

A. KATHLEEN TOMLINSON, Magistrate Judge:

The Court acknowledges receipt of Plaintiff's letter requesting that the Court set this case down for a motion hearing on Plaintiff's Third Motion to Compel. DE 40. Although the Court has already scheduled a motion hearing on Plaintiff's Third Motion to Compel for May 24, 2018, the Court is moving the hearing up to **April 19, 2018 at 10:30 a.m.** This is the only time the Court has available based on its trial schedule, so there will be no adjournments. Attorney Olshaker is to be present and his client is either to be in the courtroom or available to be hooked up to the courtroom by telephone. Defendant's counsel is on notice that the request for a pre-motion conference to Judge Spatt filed on March 29, 2018 has no impact on this hearing and the hearing will proceed on April 19.

Further, to the extent that Defendant's counsel is withholding documents because no Stipulation and Order of Confidentiality has been submitted or so-ordered by the Court, the Court is directing Attorney Olshaker to produce those documents to Plaintiff's counsel on an "ATTORNEY'S EYES ONLY" basis **no later than April 9, 2018.** Any failure to do so will subject counsel to the realistic prospect of sanctions being imposed.

Meanwhile, with regard to counsels' dispute over the Stipulation and Order of Confidentiality, although the Court will hear argument on April 19 if necessary, the reality may be that the documents which Plaintiff seeks are subject to such an agreement. Moreover, the Court previously directed the parties to enter into a Stipulation and Order of Confidentiality during the August 2, 2017 Initial Conference. DE 12. During that conference, the Court gave the parties a deadline of September 21, 2017 to file the agreement on ECF. After the parties failed to do so, the Court issued an Order reminding them of their obligation and directing them to file the agreement forthwith. *See* November 8, 2017 Electronic Order. The Court therefore directs both parties to confer and to file the proposed Stipulation and Order of Confidentiality on ECF by Monday, April 9, 2018. Based on the prior failures to comply with this directive, counsel for both sides are on notice that the Court will not tolerate any further non-compliance and will take further action if the parties fail to adhere to this Order.

SO ORDERED.

Dated: Central Islip, New York
April 2, 2018

/s/ A. Kathleen Tomlinson
A. KATHLEEN TOMLINSON
United States Magistrate Judge